



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Saturday, the 17th March, 1951

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

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Saturday, the 17th March, 1951

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Eleven of the Clock, being the First Day of the Ninth Session of the Constituent Assembly of Pakistan, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

The proceedings opened with a recitation from the Holy Quran by Syed Abul Basher Mahmud Husain.

MOTION OF CONDOLENCE ON THE DEMISE OF MALIK KHUDA BAKHSH KHAN

The Honourable Mr. Liaquat Ali Khan (East Bengal : Muslim) : Sir, it is with a heavy heart that I rise to express the grief of the Members of this Assembly on the sad death of one of our valuable colleagues, Malik Khuda Bakhsh Khan. Because of his past experience and knowledge we were expecting to receive great assistance from him in our deliberations. Malik Khuda Bakhsh Khan had been in the public life of the North-West Frontier Province in various capacities for many years and had played a very important role in the constitutional development of that Province. We are indeed very sad to have lost such a valuable colleague, and I would request you, Mr. President, to convey our sincere sympathies and condolences to the members of the bereaved family.

***Shri Sris Chandra Chattopadhyaya** (East Bengal : General) : Mr. President, I associate myself with the sentiments expressed by the Leader of the House about the death of Malik Khuda Bakhsh. What I know of him, he was a thorough gentleman, a legal practitioner and Judge, and he was a big man of the North-West Frontier Province. As far as I can remember, he was in the Khilafat Movement in 1921-22 and he also suffered imprisonment. His premature death is a great loss to us. As a well known lawyer, he would have strengthened our hands and been of great use to this Assembly in the framing of our Constitution. I associate myself with the sentiments expressed by my friend Liaquat Ali Khan.

Mr. President : Ladies and gentlemen, I endorse the statements made by the Honourable Mr. Liaquat Ali Khan and Mr. S. C. Chattopadhyaya regarding the sad death of Malik Khuda Bakhsh, as he died in harness at Lahore, where he had gone to preside over the deliberations of the Zakat Committee, of which he was the Chairman.

*Speech not corrected by the Honourable Member.

[Mr. President].

Malik Sahib was a distinguished lawyer and a scholar. He was Advocate-General of the North-West Frontier Province and later he became a Judicial Commissioner of that province. He was also Speaker of the North-West Frontier Province Assembly for some time, which office he held with great credit and showed great tact in handling difficult situations.

He was born in 1889 at Dera Ismail Khan and received his school education in his native town. After Matriculation he went to Lahore, where he joined the Forman Christian College for his B.A. Degree. While he studied Law in Lahore, he also worked on the editorial staff of the *Zemindar*, Lahore, with Maulana Zafar Ali Khan. He entered the legal profession at Mianwali but soon shifted to Dera Ismail Khan, where he took an active part in politics. In 1921 he was jailed for three years while leading the Khilafat Movement. In the Frontier Assembly he sponsored the Muslim Shariat Application Bill. He was considered to be an authority on Muslim Jurisprudence and took great interest in the *Sirat-un-Nabi* Committee.

Ladies and gentlemen, the Chair associates itself, as I have already said, with the sentiments expressed and I would request the Members to rise in their seats and remain standing for two minutes as a mark of respect to the departed soul and also those, who so like, may offer prayers for the soul of the departed.

At this stage the Members stood up and offered prayers.

ANNOUNCEMENT *RE* : NOMINATION AND ELECTION OF MEMBERS TO THE STANDING FINANCE COMMITTEE FOR THE FINANCIAL YEAR 1951-52

Mr. President : I have to make an announcement.

I have to inform Honourable Members that in pursuance of rule 64 of the Constituent Assembly Rules, the Finance Committee of the Constituent Assembly has to be set up for the financial year, *viz.*, 1951-52. I have, therefore, to inform the House that nominations for the purpose of election to the said Committee will be received in the Notice Office up to 4 P.M. on Wednesday, the 21st March, 1951, and that the election, if necessary, will be held on Saturday, the 24th March, 1951, in the Joint Secretary's room in the Assembly Building between the hours of 10.30 A.M. and 1 P.M.

Under rule 87 of the said Rules, election will be conducted on the basis of proportional representation by means of the single transferable vote.

THE GOVERNMENT OF INDIA (AMENDMENT) BILL

The Honourable Mr. Nurul Amin (East Bengal : Muslim) : Sir, I intend to move the Bill standing in my name at a later date.

Mr. President : You want it to stand over ?

The Honourable Mr. Nurul Amin : Yes, Sir.

The Honourable Pirzada Abdus Sattar Abdur Rahman (Sind : Muslim) : Sir, I beg to introduce the Bill further to amend the Government of India Act, 1935, and the India (Central Government and Legislature) Act, 1946.

(After pause)

***The Honourable Pirzada Abdus Sattar Abdur Rahman** : Sir, I beg to move :

"That the Bill further to amend the Government of India Act, 1935, and the India (Central Government and Legislature) Act, 1946, be taken into consideration."

Sir, this Bill has two parts : Clauses 1 to 8 seek to amend the Government of India Act and Clause 9 seeks to amend the Central Government and Legislature Act, of 1946. With regard to the amendment of the Government of India Act, the first amendment is with respect to the Frontier Assembly elections. As you are aware, Sir, the period of the Frontier Legislative Assembly expired on the 12th of March this year. That was for a period of five years and the Governor has dissolved the Assembly with effect from the 10th of March. New elections are therefore to be held. We have already accepted the principle of adult franchise in case of the Punjab and elections are proceeding there. Under this Bill it is sought to extend the same provisions in case of the elections to the Frontier Assembly and, therefore, adult franchise is being brought in by this Bill and also, Sir, the number of seats is being enlarged in view of the changed conditions and in view of the larger electorate that we will be having. It is proposed to have 85 seats out of which 82, according to population, would be for Muslims and two will go to Muslim women and one will be general.

According to rough figures under the recent census, population of N.-W.F.P. comes to between thirty-two and thirty-three lakhs and it is intended to give one seat to every 40,000 people. Calculating at that rate Muslims get 82 seats and Muslim women two seats and one seat will be "general" although the number of minorities coming under the category of "general" is very very low. It does not come up to 30,000. As I have said, still, one seat has been given.

Another provision about the Frontier Assembly is that it is at present not clear in the Government of India Act whether the powers of legislation by ordinance given to Governor can be exercised when one Assembly has been dissolved and another Assembly has to be elected. This position is being clarified, because there might arise several emergencies or occasions when it might be necessary to legislate and, therefore, these powers are being given to the Governor.

Proceeding further, Sir, there are minor changes in sections 3, 4 and 5. In the Pakistan (Provisional Constitution) Order, the word "India" was not substituted. Although, finally, at the time of drafting, after the Bill had been passed, the word was changed from "India" to "Pakistan" it was without any legislative authority. That authority is being provided now by making suitable amendment. Amendments in clauses 4 and 5 are consequential.

Then, Sir, we come to clause 8 of the Bill which deals with our law with regard to naturalisation, citizenship and nationality. You would remember, Sir, that a Bill had come before the Constituent Assembly about nationality which the Constituent Assembly decided to send to the Legislature. Now at present, in the Government of India Act in Seventh Schedule

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in List I in Entry 49 the word "naturalisation" only is written. It is proposed to amend that and make the entry read: "Nationality, citizenship and naturalisation" so that the Legislative Assembly could undertake the necessary legislation about nationality.

By clause 9 it is intended to amend the India (Central Government and Legislature) Act, 1946, which gave power of legislation for control with regard to essential commodities and power of requisition but that Act had a life of only five years and that life is going to expire on the 31st March, 1951. But as circumstances still justify that it will be necessary to have control as well as powers of requisition secured under that Act, it is intended to extend the period by a further period of three years.

These are the main provisions of the Bill and I commend it for the consideration of the House.

Mr. President : Motion moved :

"That the Bill further to amend the Government of India Act, 1935, and the India (Central Government and Legislature) Act, 1946, be taken into consideration."

***Sardar Shaukat Hyat Khan** (Punjab : Muslim) : Sir, while we, believing in democracy, will be grateful to the Government for furthering the cause of democracy in the Frontier, some people may also get up and say that the Government has been partial in this matter. While they have given adult franchise to the Punjab and the Frontier—which we all applaud and we are grateful for that—they have forgotten somehow three other Provinces which also exist in Pakistan. One hears that in Bengal there are some 11 or 12 seats still vacant and bye-elections even are not taking place there and we hope that when the Government is being so kind as to bring forward adult franchise and new elections in Provinces like the Punjab and the Frontier, people of East Bengal will not be forgotten and the Government will also give them adult franchise. Five years have taken place since the last elections took place in Bengal. Instead of bringing forward this piecemeal legislation, the Government will make up mind for once and bring Bengal and Sind and Baluchistan within the purview of this Bill. This is all, Sir, what I want to bring to the notice of the Minister in charge and I hope that soon we will hear that the Government has remedied the mistake and the elections are taking place in Bengal, Baluchistan and Sind.

Mr. Nur Ahmed (East Bengal : Muslim) : Sir, I rise to accord my wholehearted support to this most important measure. Sir, this amending Bill introduces revolutionary changes in the political life of Pakistan. Sir, I know that election on the basis of adult franchise is taking place at this very moment in the Punjab; and this Bill is intended to hold elections on adult franchise in the North-West Frontier Province.

Sir, Punjab is the most important province of Pakistan and the people are educationally and economically most advanced in that Province, whereas in the Frontier Province the masses are comparatively backward in education and economically as compared with Punjab. Sir, I must congratulate the Government that they are going to implement the principles that were adopted in the Objectives Resolution that all citizens of Pakistan should enjoy equal rights and it is a great pleasure to see that adult franchise is the order of the day. No doubt there is some strong opinion, even in Pakistan, that unless the electors are educationally advanced and are in a position to exercise their franchise judiciously and wisely to send the best man to the Legislature, it may do harm and there may be an abuse of this franchise. Sir, there are also praiseworthy clauses in this legislation and that is that the women in the

North-Western Province are getting a right to vote and it is high time that the Government have come forward with a measure like this. Sir, in some countries at the present moment, the women are demonstrating and agitating to secure this right of franchise. This is really a praiseworthy and commendable part of the legislation. I strongly support the measure though this power given to the masses may not be for the time being properly used but they will learn the arduous responsibilities in course of time and will realise that they are part and parcel of their own independent State and that they have a voice in shaping the destiny of the same. Sir, it is a surprise that this right has not been extended to East Bengal but I think when the time comes, it will be done there also.

Sir, at the same time, I appeal to the Government to see that people are not educationally backward and that it should afford all facilities to all the institutions, so that the masses may be sufficiently educated to exercise their valuable right to vote for the right person. Sir, I am glad that Government have taken powers to control the essential commodities and requisitioning of commodities. Sir, Pakistan's economy requires for some time such a control and such a management by the State. Sir, we want that there should not be any capitalistic Government in Pakistan. Pakistan's economy should be a planned economy based on Islamic principles. Pakistan's economy should be based on sound principles of Islamic law. A principle should be followed which ensures equitable distribution of essential commodities and necessities of life to everyone in Pakistan. For this purpose, Government must have some powers to control and supervise the distribution of essential goods, so that people may get their requirements at reasonable price and people who are bent on making easy profit at the cost of their fellow countrymen should not get any opportunity to make huge profits and give a bad name to Pakistan. Sir, I strongly support the motion under consideration.

***Mr. Ahmed E. H. Jaffer** (Sind : Muslim) : While congratulating the Government for bringing forward this measure, and for the wise decision indeed for having provincial elections to the various legislatures on adult franchise, may I respectfully point out to the Government the question of very great importance to the various Chambers of Commerce and Industries in this country that they have repeatedly brought this fact to the notice of the Government that they should have in various legislatures—provincial as well as Central—their representative of trade and commerce and industry by having specially reserved seats. If I am aright—and I am open to correction—I think there has not been any reserved seat in the Punjab for representatives of Trade and Commerce, nor are there any seats in the Frontier Legislature, reserved for trade : and I would respectfully submit to the Government that in future elections to the various legislatures, they will not lose sight of this question and also when the new Constitution is framed and when we have general elections there will be representatives of trade and commerce and industry who will get seats not only in this House but also in the Provincial Legislatures as well.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I thought that the Honourable Member from Punjab would have a word of congratulation for having adopted the policy of holding general elections all over Pakistan wherever the period expires, but, probably, there has been none.

Sardar Shaukat Hyat Khan : I did.

* Speech not corrected by the Honourable Member.

***The Honourable Pirzada Abdus Sattar Abdur Rahman :** Another point, Sir, about his remarks is that he, in this case also, is not properly informed as he usually is. He must know that we have enunciated the policy and very clearly told that wherever the term of a provincial legislature expires, we will hold general elections. Therefore, he should have patience. If he has got no correct information about the dates of the expiry of the provincial legislatures, that is not my fault. Sir, I might tell him that the period of Frontier Legislative Assembly has expired and we are holding general elections. Wherever it will happen, we will hold general elections on the basis of adult franchise.

With regard to the point raised by Mr. Jaffer, Sir, I do not know if he is aware that even the Basic Principles Committee has provided that there should be no reservation of seats for any special class and that object was in view when we legislated for Punjab and no special seat was provided there also. I hope he should have been alert at the time when we were legislating in respect of Punjab.

Mr. Ahmed E. H. Jaffer : I was not a Member then.

***The Honourable Pirzada Abdus Sattar Abdur Rahman :** We cannot have different principles for one Province and others in the case of another Province. I am sorry he is late by at least 8 or 10 months for raising this point. Moreover, it has been decided by the Basic Principles Committee that there should be no special reservation for any seats and that there should be normal general election for every seat, which, I think is the proper principle.

Mr. President : The question is :

"That the Bill further to amend the Government of India Act, 1935, and the India (Central Government and Legislature) Act, 1946, be taken into consideration."

The motion was adopted.

Clauses 2 to 5 were added to the Bill.

Prof. Raj Kumar Chakraverty (East Bengal : General) : Sir, I beg to move :

"That in part (i) of sub-clause (f) of clause 6 of the"

Mr. President : Before you move your amendment, may I point out that as it stands it is rather defective because you have not sought to change the total. The total number of seats is 85. If you increase column 15 by 3, then this total should also be increased by the same number. Therefore, as it stands, it is defective.

Prof. Raj Kumar Chakraverty : It may be defective but it is not out of order. If the House accepts my principle, it will be the duty of the Mover of the motion to do the needful. So, unless you rule my amendment out of order, I think I should go on.

Mr. President : I think you yourself will be prepared to move a short notice amendment proposing that the total of 85 be increased to 88.

Prof. Raj Kumar Chakraverty : Certainly, Sir, if my amendment is accepted. Sir, I move :

"That in part (i) of sub-clause (f) of clause 6 of the Bill; for the figures and word '2 column 15' the figures and word '5 column 15' be substituted."

My amendment is a very short one and seeks to provide for a better representation in the new elections. The total number of members of the North-West Frontier Province Assembly formerly was 50 and it has now been raised to 85. Formerly there was no seat for women, but this time two seats have been reserved for women. I should say there has been some progress in this matter, though I consider that the reservation of two seats only for women voters is not enough nor it is a very fair representation of women voters. Now, it is difficult for me to understand on what principle this number two has been fixed. I think the number of women voters would not be less than 40 per cent. At any rate, it must not be less than 30 per cent. of the total number of voters. If that is so, the women voters are entitled to more than two seats in the Legislature. If you think that women are equal to men and therefore they deserve no preferential treatment or if you think that women's cause is men's and men's cause is women's, then certainly there should be no separate representation for women. But I find that the mover of the Bill has not accepted that principle. If we think that women need protection or special representation for any reasons whatsoever, then I think they should be given fair representation and not this scanty or unfair representation. I find there is no lady member present in the House today. Those members who are present here belong to the male sex. Let us not be very selfish by legislating in this way. In the end I would like to say that if we want to show our sympathy for women, let our sympathy be full and if we want to be chivalrous let our chivalry be not half-hearted in any way.

***The Honourable Mr. Abdul Hamid (East Bengal : Muslim) :** Sir, these are very delicate matters and personally I would desire that this House should not impose anything on the provinces. In a matter like this the proposal had better come from the provinces. They will look into the circumstances of their provinces and make a suitable recommendation. We from East Pakistan should not dictate what ought to be the representation of the females in the North-West Frontier Assembly nor the East Pakistan would like to be dictated by the North-West Frontier Province as to what ought to be the representation of the females in East Pakistan. I am sure Mr. Chakraverty will himself realise that this is a very delicate matter and we should leave the provinces to decide it for themselves. As development takes place, they will themselves come forward with the proposal giving more representation to the females.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I oppose this amendment.

The Honourable Mr. Abdul Hamid : There is another point on which I wish to say something. . . .

Mr. President : Order, order : You are too late.

The Honourable Mr. Abdul Hamid : I want to say something on the matter of drafting.

Mr. President : Order, order, please.

***The Honourable Pirzada Abdus Sattar Abdur Rahman :** Sir, the Honourable mover of the amendment has forgotten that we have been very liberal in the framing of this legislation and that our policy in franchise matters for women has been more liberal to them than in any other country. In fact, better consideration has been shown to them than to men. He probably forgets that out of the 82 seats that are provided for Muslims, there will be women as well as men voters and women are

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free to contest any one of these seats they like. They have got equal freedom with men to contest them. These two seats are being given in excess of the seats that they might get by standing in the general election for these seats. He will, thus, see that women have got more advantages in the North-West Frontier Province than men have. Therefore, I do not see any reason why he should make a grouse of this. I do not know if he is a member of the Franchise Committee. This matter was fully debated in the Franchise Committee and there it was decided.....

Mr. President : You are referring to confidential matters.

The Honourable Pirzada Abdus Sattar Abdur Rahman : I thought I could do so in the House. I am very sorry. Anyway, I have clearly shown that we have been more liberal by providing these two seats for women. Therefore, there is no reason for enlarging the number of these seats for women.

With regard to the point raised by the Honourable Mr. Abdul Hamid, I may say that the Frontier members were consulted and these seats are being provided in consultation with them.

Mr. President : The question is :

"That in part (i) of sub-clause (f) of clause 6 of the Bill, for the figures and word '2 column 15' the figures and word '5 column 15' be substituted."

The motion was negatived.

Mr. President : The question is :

"That clause 6 stand part of the Bill."

The motion was adopted.

Clause 6 was added to the Bill.

Clauses 7, 8 and 9 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I move :

"That the Bill be passed."

Mr. President : The question is :

"That the Bill be passed."

The motion was adopted.

Mr. President : The House stands adjourned till 11 A.M. on Wednesday, the 11th April, 1951.

The Assembly then adjourned till Eleven of the Clock, on Wednesday, the 11th April, 1951.